

Shanell James,
Plaintiff

against

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT, E.D.N.Y.

★ SEP 17 2007 ★

BROOKLYN OFFICE

Civil Action No.

CV 07-3165 (CBA)
(MJB)

Federal Bureau of Prisons,
Defendant

Motion to Dismiss Petition
for "Writ of Mandamus" Relief

Now comes, Plaintiff Shanell James, who moves to dismiss his petition for "Writ of Mandamus" Relief. This is in accordance with Rules of Federal Civil Procedures. Plaintiff submits the following to support his claims:

As a result of the filed petition for "Mandamus" relief before this Honorable Court, Plaintiff had his "legal property" returned to him on August 23, 2007. Although not in full, Plaintiff believes he is missing additional materials, however he is seeking other legal remedies to have his claims/issues addressed via Tort.

Plaintiff only sought this Honorable Court's intervention and Mandamus relief due to the Defendant's neglect to address his issues concerning his missing personal property to which his legal property was connected with. Plaintiff only sought this Honorable Court's attention because his repeated attempts to informally resolve this matter with the Defendant was ignored. It is well known by Plaintiff that "Mandamus" is a drastic remedy

to be used only in extraordinary circumstances". The circumstances of what Plaintiff claims is "extraordinary" because Defendant, through its neglect, to provide Plaintiff his legal property, needed to pursue his pending litigation in Civil Action No. 06-0562 (RMC), before U.S. District Court for the District of Columbia. In this denial the Defendant has/had created a obstruction of Due Process, by the neglect, and/or withholding of property.

Contrary to the Defendant present position that Plaintiff's issue is now "moot" for it has provided the necessary "property". This issue is in fact moot because Plaintiff did dismissed his Administrative claim. Not because he's totally satisfied that his property has been provided, but because he doesn't have the resources to effectively pursue this "fight". Plaintiff is already engaged in litigation to which he sought the "Mandamus" relief, for the Administrative Remedy process was inadequate to have issues regarding his property remedied, in the time ordered by the Honorable Court in Civil Action No. 06-0562 (RMC). The Plaintiff hopes that he has demonstrated his position in seeking "Mandamus" relief, and that it is justified that his petition for remedy was/is genuine, and not a frivolous issue, to which Plaintiff has wasted this Honorable Court's time, attention, and service.

In conclusion, Plaintiff humbly and respectfully would like to request that this Honorable Court note on the record this filing, and to also issued a verbal reprimand to Defendant regarding the 4 month neglect to issue Plaintiff's property, to which he only recieved a partial release. In addition, it is also requested that he be provided documentation that the

Defendant understands its duty as stated in Title 28, Code of Federal Regulations, part 543.10, Subpart B-Inmate legal Activities, "Purpose and Scope," which declares: "The Bureau of Prisons affords an inmate reasonable access to legal material and counsel, and reasonable opportunity to prepare legal documents. The Warden shall establish an inmate law library and procedures for access to legal reference materials and to legal counsel, and for preparation of legal documents."

Upon the official notification of notice by this Honorable Court that it has reminded the Defendant of its duty, Plaintiff dismisses his petition for "Writ of Mandamus" relief.

Gratefully Submitted.

Shanell James, Pro Se
Register No. 69829-004
Metropolitan Correctional Center - Brooklyn
80-29th Street
Brooklyn, New York 11232
Unit K 83

cc: To
Defendant via Internal Mail

Bureau of Prisons
Metropolitan Correctional Center - Brooklyn
Legal Department
80-29th Street
Brooklyn, New York 11232
Attn: Legal Assistant M. Cardew

BP-S148.055 INMATE REQUEST TO STAFF CDFRM
SEP 98

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

TO: (Name and Title of Staff Member) Mr. D. Williams - I3M	DATE: 8/05/07
FROM: Shanell James	REGISTER NO.: 69829-004
WORK ASSIGNMENT: N/A	UNIT: K-83

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

As per our conversation several week ago. I humbly and respectfully request letter (on BOP letterhead) declaring that I recieved my legal (partial) property on 8/23/07 from Property Officer Ford. This is necessary to submit to the U.S. District Court for the District of Columbia, regarding Civil Action No. 06-0562(RMC), in an effort to support a requested "extension of time". In addition this letter will also provide an explanation to the Northeast Regional Office regarding the delay of resubmittance of Remedy Id No. 443846-A1 to Central Office, National Appeal Administrator. Thank you
"Please be advised that this request was submitted via Counselor J. Archer"

(Do not write below this line)

DISPOSITION:

As requested you seek official confirmation as to the date you received your legal materials from FCI McKean. Several request by staff at MDC Brooklyn were made to FCI McKean beginning shortly after your arrival. The property was not received until it was inventoried and provided to you on August 23, 2007. Any delays in receipt of your property (Legal materials) was due to FCI McKean not sending your property (Legal materials). This serves as your official response to your request, also attached is the Administrative Remedy withdrawal memorandum, which is also an official document.

Signature Staff Member

Date

D. Williams
Record Copy - File; Copy - Inmate
(This form may be replicated via WP)

9-7-07

This form replaces BP-148.070 dated Oct 86
and BP-S148.070 APR 94



Printed on Recycled Paper

ADMINISTRATIVE REMEDY WITHDRAWAL FORM

DATE: September 7, 2007

TO: Administrative Remedy Coordinator
Brooklyn MDC

FROM: JAMES, Shanell
Register Number 69829-004

SUBJECT: Administrative Remedy Request 460175-F1

Persons Concerned,

I, Shanell James / Shanell James, Federal Register Number 69829-004 hereby withdraw my Request for Administrative Remedy Number 460175-F1. I have made this decision without any duress or coercion, and I have done so of my own free will. My decision is based on the fact that I have informally resolved the issue(s) presented in my Administrative Remedy to my satisfaction, as I received my Legal materials I was requesting on August 23, 2007.

Shanell James
JAMES, Shanell, Reg. No. 69829-004

9/07/07
DATE

D. Williams, JSM
Staff Name, Staff Title

9-7-07
DATE

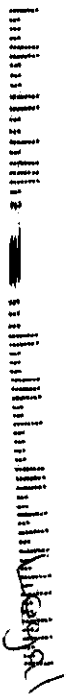
Shawell James 69829-004
Metropolitan Detention Center - Brooklyn
80-29th Street
Brooklyn, New York 11232
Unit 1C-83

ATTN: Clerk of District Court

United States District Court
for The Eastern District of New York
U.S. Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Legal Mail

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Mail

